

**IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING
INFORMATION DISCLOSURE STATEMENT**

1. The information disclosure statement submitted herewith is being filed after the mailing of the first Office action on the merits or 3 months after the filing date of the application, whichever occurs later, but before the mailing date of any final action under §1.113, a notice of allowance under §1.311 or an action that otherwise closes prosecution in the application.. 37 C.F.R. § 1.97(c).
2. In accordance with the requirements of 37 C.F.R. §1.97(c):
 - A. Accompanying this transmittal is a statement, as specified in 37 C.F.R. §1.97(e).

Please charge any deficiency to deposit account 19- 4972.

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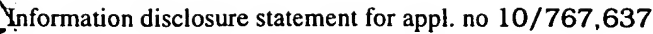
Customer No.: 002101



Signature of Practitioner

John L. Conway

Bromberg & Sunstein LLP
125 Summer Street, Boston, MA 02110



**IDENTIFICATION OF INFORMATION DISCLOSURE STATEMENT FOR WHICH THIS
STATEMENT IS BEING MADE**

1. This statement is being made for the Information Disclosure Statement
☒ accompanying this statement.

2. I, the person(s) signing below state:

☒ that each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. 37 C.F.R. § 1.97(e)(1)

Identification of Person(s) Making Statement

3. The person making this statement is

(check each applicable item)

(a) ☐ the inventor(s) who signs below

SIGNATURE OF INVENTOR

(type or print name of inventor who is signing)

(b) ☐ an individual associated with the filing and prosecution
of this application (37 C.F.R. § 1.56(c))

SIGNATURE OF INVENTOR

(type or print name of inventor who is signing)

(c) ☒ the practitioner who signs below on the basis of the information:

(check each applicable item)

☐ supplied by the inventor(s).

☐ supplied by an individual associated with the filing and prosecution
of this application. (37 C.F.R. § 1.56(c))

☒ in the practitioner's file.

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SIGNATURE OF PRACTITIONER

John L. Conway

(type or print name of person certifying)

Bromberg & Sunstein LLP

125 Summer Street

Boston, MA 02110-1618



Practitioner's Docket No. 2731/103

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mason Atty Dkt: 2731/103
Serial No: 10/767,637 Art Unit: 3732
Date Filed: January 29, 2004 Examiner: A. R. Reimers
Invention: **Method for Graftless Spinal Fusion**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

CERTIFICATE UNDER 37 C.F.R. § 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is **mandatory**;
Express Mail certification is optional.)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

☒ **37 C.F.R. § 1.8(a)**

37 C.F.R. § 1.10*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"
Mailing Label No. _____ (**mandatory**)

TRANSMISSION

☐ transmitted by facsimile to the Patent and Trademark Office.

Date: : August 25, 2005

Signature


John L. Conway

(type or print name of person certifying)

NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

- (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
- (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
- (3) Before the mailing date of a first Office action on the merits; or
- (4) Before the mailing date of a first Office action after the filing of a request for continued examination under § 1.114."

37 C.F.R. § 1.97(b).

NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. § 1.56(a).

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. § 1.56(c).

NOTE: The "duty as described in § 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O. G. 13 -25 at 17.

WARNING: "No information disclosure statement maybe filed in a provisional application." 37 C.F.R. § 1.51(d).

List of Sections Forming Part of This Information Disclosure Statement

The following sections are being submitted for this Information Disclosure Statement:

(check sections forming a part of this statement: discard *unused* sections and number pages consecutively)

1. ☒ Preliminary Statements
2. ☒ FORMS PTO/SB/08A and 08B (formerly FORM PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications
6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☐ Concise Explanation of Non-English Language Listed Information Items
 - 7A. ☐ EPO Search Report
 - 7B. ☐ English Language Version of EPO Search Report
8. ☐ Translation(s) of Non-English Language Documents
9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections _____, respectively, have been continued on ADDED PAGE(S).

NOTE: "Once the minimum requirements are met the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).

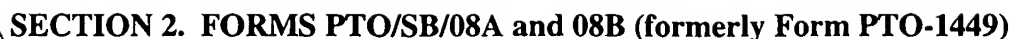
Section 1. Preliminary Statements

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. § 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

(Information Disclosure Statement—Section 1. Preliminary Statements [6-1]--)



Applicant: Mason Atty Dkt: 2731/103
Serial No: 10/767,637 Art Unit: 3732
Date Filed: January 29, 2004 Examiner: A. R. Reimers
Invention: Method for Graftless Spinal Fusion

Section 6. Copies of Listed Information Items Accompanying This Statement

NOTE: 37 C.F.R. § 198(a)(2) requires that any information disclosure statement filed under § 1.97 shall include:

"A legible copy of.:

- (i) Each U.S. patent application publication and U.S. and foreign patent;*
- (ii) Each publication or that portion which caused it to be listed,*
- (iii) For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion. . .*

Legible copies of all items listed in Forms PTO/SB/08A and 08B (formerly Form PTO-1449) accompany this information statement.

(complete the following, if applicable)

Exception(s) to above:

US patent application publications and U.S. patents.

(Information Disclosure Statement-Section 6. Copies of Listed Information Items Accompanying
This Statement [6-1]-

Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this statement is

(check each applicable item)

- (a) ☐ the inventor(s) who signs below

SIGNATURE OF INVENTOR

(type or print name of inventor who is signing)

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. § 1.56(c))

SIGNATURE OF INVENTOR

(type or print name of inventor who is signing)

- (c) ☒ the practitioner who signs below on the basis of the information:

(check each applicable item)

- ☐ supplied by the inventor(s).
- ☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. § 1.56(c))
- ☒ in the practitioner's file.

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SIGNATURE OF PRACTITIONER

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(Information Disclosure Statement-Section 10. Identification of Person(s) Making This Information Disclosure Statement [6-1]-

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